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16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**

18 CONSTELLATION BRANDS U.S.
19 OPERATIONS, INC., a New York
20 corporation,

21 *Plaintiff,*

22 v.

23 THE VINEYARD HOUSE, LLC, a
24 California limited liability company,

25 *Defendant.*

Case No.: 3:20-cv-00238

**PLAINTIFF CONSTELLATION
BRANDS U.S. OPERATIONS, INC.'S
ADMINISTRATIVE MOTION TO
FILE UNDER SEAL**

*[Declaration of Timothy J. Carlstedt and
[Proposed] Order filed concurrently
herewith]*

TO PLAINTIFF AND ITS ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that Plaintiff Constellation Brands U.S. Operations, Inc. (“Constellation” or “Plaintiff”) will, and hereby does, move this Court for emergency administrative relief under Local Rule 79-5. Specifically, Constellation seeks to file under seal (1) Plaintiff’s Memorandum of Points and Authorities in Support of Plaintiff’s Motion for a Preliminary Injunction, and (2) the Declaration of John Seethoff, which both contain financial information that should be protected from public disclosure. This motion is based upon this Notice of Motion and Motion, the accompanying attached Memorandum of Points and Authorities, the Declaration of Timothy J. Carlstedt filed concurrently herewith, and on such other evidence and argument that may be presented to the Court.

DATED: January 10, 2019

HUNTON ANDREWS KURTH LLP

By: /s/ Timothy J. Carlstedt
Timothy J. Carlstedt
Attorney for Plaintiff
CONSTELLATION BRANDS
U.S. OPERATIONS INC.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to Civil Local Rules 79-5 and 7-11, Constellation respectfully requests leave to file under seal Plaintiff's Motion for Preliminary Injunction and the supporting Declaration of John Seethoff, which both contain financial information that should be shielded from public disclosure.

II. STATEMENT OF ISSUES TO BE DECIDED [L.R. 7-4(A)(3)]

1. Whether Plaintiff can file the Memorandum of Points and Authorities in Support of Plaintiff's Motion for a Preliminary Injunction under seal, subject to limited redactions for financial information.

2. Whether Plaintiff can file the Declaration of John Seethoff, subject to limited redactions for financial information.

III. ARGUMENT

The federal common law right "to inspect and copy public records and documents" extends to materials submitted in connection with dispositive motions. *San Jose Mercury News, Inc. v. U.S. Dist. Ct.*, 187 F.3d 1096, 1102 (9th Cir.1999). However, this right is not absolute, and can be overcome if compelling reasons supported by specific factual findings outweigh the general history of access and the public policies favoring disclosure. *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 678 (9th Cir.2010) (quoting *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178, 1178–79 (9th Cir.2006)); *see also See San Jose Mercury News*, 187 F.3d at 1102.

Plaintiff submits a Motion for Preliminary Injunction and supporting declaration, which both identify the costs that Constellation spent in connection with the production, development and promotion of Constellation's TO KALON VINEYARD COMPANY wines. Disclosure of this information to competitors would be severely detrimental to Constellation. For example, this financial information could be used for improper purposes for Constellation's business competitors including the release of valuable trade secrets regarding production, development and

1 promotion expenses that reflect Constellation's business and marketing strategy.
 2 Constellation has thus shown compelling reasons that outweigh the public's interest in
 3 disclosure. *See Bauer Bros. LLC v. Nike, Inc.*, No. 09CV500-WQH-BGS, 2012 WL
 4 1899838, at *4 (S.D. Cal. May 24, 2012) (S.D. Cal. May 24, 2012) (order) (sealing
 5 confidential financial information, including "promotional costs," "advertising
 6 strategies," and "business data" under the "compelling reason" standard); *AFL*
 7 *Telecommunications LLC v. SurplusEQ.com Inc.*, 946 F. Supp. 2d 928, 947 (D. Ariz.
 8 2013) (noting that harm to competitive standing because of disclosure of insider
 9 financial information provides compelling reason to seal such documents). Indeed,
 10 the redactions made to the public filings are very minimal and preserve the public's
 11 ability to access these documents.

12 **IV. CONCLUSION**

13 For the reasons above and in the Declaration of Timothy J. Carlstedt,
 14 Constellation requests that the Court grant leave to file under seal (1) Plaintiff's
 15 Memorandum of Points and Authorities in Support of Plaintiff's Motion for a
 16 Preliminary Injunction, and (2) the Declaration of John Seethoff.

17
 18 Dated: January 10, 2019

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 28

CERTIFICATE OF SERVICE

The undersigned certifies that PLAINTIFF CONSTELLATION BRANDS U.S. OPERATIONS, INC.'S ADMINISTRATIVE MOTION TO FILE UNDER SEAL was served on Defendant's counsel by email (with consent) on this 10th day of January 2020:

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Dated: January 10th, 2020

By: /s/ Timothy J. Carlstedt

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